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EXAMINER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/582,927
Filing Date: May 14, 2007
Appellant(s): COMPAINS ET AL.

James Howard, Reg. No. 39,715
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed August 3, 2010 appealing from the Office action mailed May 6, 2010.

Art Unit: 1712

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims 8-10, 12-19, 21 and 22 are rejected.

Claim 20 is objected to but would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except

Art Unit: 1712

for the grounds of rejection (if any) listed under the subheading “WITHDRAWN REJECTIONS.” New grounds of rejection (if any) are provided under the subheading “NEW GROUNDS OF REJECTION.”

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant’s brief.

(8) Evidence Relied Upon

2004/0103693	Kim et al	06-2004
4826180	Deuring	05-1989

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 8, 10-16 & 21 rejected under 35 U.S.C. 102(b) as being anticipated by Kim et al (U.S. pgpub 2004/0103693, hereafter ‘693).

2. Claims 8 and 14: ‘693 teaches a machine housing (fig. 4, part 100, [0049]), a lye container (fig. 4, part 200), a cantilevered rotating drum (fig. 4, part 300, [0056]), a front load opening (fig. 4, part 111, [0050]), with a bellow type collar (fig. 4 and 5, part 500, [0065]) connecting the lye container and the front panel (fig. 4, clearly shows the gasket connecting the

Art Unit: 1712

lye container to the front panel, [0065]-[0070]), composed of an inner collar fixed to the housing (fig. 4 & 5, part 511), a central collar (fig. 5, part 512) and a outer collar coupled to the lye container (fig. 5, part 513), with a annular stiffening element (fig. 5, part 532) comprising a thickening area (fig. 4 & 5, part 532, is a thickening of the end of the inner visible collar closes to the lye container) reducing the deformation of the collar ([0075] & [0081]). '693 teaches a non-visible section of the bellow type collar (fig. 4 & 5, the central collar is non-visible) with an articulated section disposed on that non-visible section (page 11 of applicants appeal brief, paragraph 4, lines 8 and 9, applicant defines articulated section as "two parts are joined to each other in a way that these parts may swivel relative to each other at the articulation", '693 teaches that the articulated section is the section of the non-visible central collar that meets up at the annular stiffening element of the inner visible section, see fig. 5, [0067]-[0070], furthermore there is also a second articulated section where the central ring meets up with the outer ring, creating the bending joint) .

3. Claim 10: '693 teaches that the stiffening element lies in the area of the inner collar ring that lies closest to the drum next of the drum (fig. 4 & 5, clearly shows that the stiffening element 532, lies closes tot he drum neck).

4. Claim 12: '693 teaches that the articulated section is formed of a thinner material area between two thickened areas of the bellows type collar (fig. 5, the first thickened area is the stiffening element, part 532, located on the visible inner collar ring, the second thickening element is part 531, located on the outer collar ring, both elements are part of the bellow collar, and the articulated section located between the elements, the hinge formed at the central collar meeting the stiffening element is thinner material than the two thickening elements).

Art Unit: 1712

5. Claim 13: '693 teaches that the articulated section in the non-visible section of the collar directly adjoins the stiffening element (fig. 5, the articulated section in the non-visible section adjoins the stiffening element, part 532).

6. Claim 15: '693 teaches that the annular stiffening element is a nose (fig. 5, part 532) with a thickened are disposed at the inner free edge of the inner collar ring and the central collar ring (fig. 5) with the inner collar ring having a thickness less than the stiffening element (fig. 5).

7. Claim 16: '693 teaches that the thickened area of the noses extends radially outwardly from the inner collar ring (fig. 5, part 532, clearly shows the that the stiffening element extends radially outwardly from the central collar ring, providing the inner collar ring with a radially inwardly facing surface being substantially uniform and uninterrupted).

8. Claim 21: '693 teaches that the inner and the outer collar rings are parallel to each other (fig. 4 & 5, parts 511 & 513) with the central collar ring diagonal (fig. 4 & 5, part 512).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

Art Unit: 1712

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 17-19 rejected under 35 U.S.C. 103(a) as being unpatentable over Kim et al (U.S. pgpub 2004/0103693).

11. Claim 17: '693 does not teach a beaded section on the central collar ring. '693 teaches a plurality of stiffening beads located on portions of the inner and outer collar ring (fig. 5, part 531, [0071]-[0074] & [0081]) to prevent the deformation of the outer and inner rings of the collar ([0071]-[0074] & [0081]) where the beads are spaced away from the edges of the rings (fig. 5). It would have been obvious to one of ordinary skill in the art at the time the invention was made to place a stiffening bead on the central ring spaced away from the edge (thus the articulated section would fall between the bead and the noise, since the articulated section is the area of the central ring meeting up with the noise section) in apparatus '693 to yield the predictable results of helping to prevent the deformation of the central collar ring.

'693 teaches that the bead is thicker than the straight parts of the collar rings (fig. 5). Therefore the bead located on the central collar ring will have a thicker cross section than the straight part forming the articulated section between the bead and the noise.

12. Claim 18: '693 teaches that the noise (part 532) has a greater thickness than the articulated section (fig. 5, clearly shows that the nose is thicker than the part of the central collar connecting to the nose, i.e. the articulated section).

13. Claim 19: '693 teaches that there is collar spacing on both sides of the bead elements (fig. 5, shows flat section of the collar on both sides of the beads, spacing the beads from the edge elements of the collar) where the flat section have a thickness less than the bead element (fig. 5, part 531 has a thicker cross section than the flat elements). Therefore the section of the

Art Unit: 1712

flat element on the central ring between the bead element (see claim 17 for bead element on central ring) and the outer free edge (the edge connecting the central ring and outer ring) of having a thickness less than the bead element.

Claims 9 & 22 rejected under 35 U.S.C. 103(a) as being unpatentable over Kim et al (U.S. pgpub 2004/0103693) as applied to claims 8 and 14 above further in view of Deuring (U.S. 4,826,180, hereafter `180).

14. Claims 9 & 22: `693 teaches that the collar is made of a flexible material ([0068]) but does not teach a metal ring vulcanized at least one of on and in the bellows type collar. `180 is solving the same problem as `693 of strengthening a flexible seal member. `180 teaches vulcanizing a metal ring in the flexible seal to strength that seal member (col. 1, lines 15-20). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have vulcanized a metal ring as taught by `180 into the flexible sealing collar of `693 to have strengthened the collar.

(10) Response to Argument

Response to argument for claim 8

Applicant is arguing on page 10, paragraph 1, that the claimed invention is acting differently than the cited art Kim et al (U.S. pgpub 2004/0103693), specifically how the articulating section is localizing movement at the joint rather than spreading out movement across the annular stiffening element. However, none of these features concerning that the articulating section localizing movement of the collar are claimed. The claimed requires that the annular stiffening element only reduces the spread of deformation forces which Kim teaches that

Art Unit: 1712

the annular stiffening element (Kim part 532) is for preventing deformation (Kim, [0075] & [0081]) thus reduces the deformation of the bellow type collar.

Applicant is arguing on page 10, paragraph 2, that the prior art does not teach that the articulated section can localize the swivel movement or articulation between the relatively stiff members at the joint, rather than spreading out movement across the annular stiffening element as a whole. However these limitations are not claimed, thus at this moment in time applicant's arguments with respect to the stiffening element localizing movement of the collar are moot since those feature are not currently claimed.

Applicant is arguing on pages 10-11 that the prior art does not teach that the reduction or prevention of deformation forces from the outer collar ring to the inner collar ring. Applicant is arguing that the Kim et al part 531 is the annular stiffening element. The examiner has identified in the above rejection that in Kim et al, part 532 is the annular stiffening element. Kim et al clearly teaches that the annular stiffening element (part 532) is used to prevent the deformation (Kim, [0075] & [0081]). Applicant has provided no evidence that the annular stiffening element does not prevent or reduce the spread of the deformation forces between the inner, outer and central collar rings.

Applicant is arguing on page 11, 1st full paragraph, that the prior art Kim clearly spreads or evenly distributes the movement of the collar as a whole rather than localizing the movement of the collar at an articulated section. However applicant does not claim that the articulated section localizes movement of the collar at the articulated section. Therefore, applicant's arguments are moot. Furthermore, applicant is arguing how the prior art Kim spreads or evenly distributes the movement of the collar as a whole but provides no evidence that the prior is in

Art Unit: 1712

fact acting how the applicant is arguing. Therefore examiner finds applicant argument here as solely argumentative and carries no weight since no supporting evidence has been provided.

Response to arguments for Claim 12

Applicant further argues on page 12, paragraph 1, that the prior art Kim does not teach that the articulated section is formed of a thinner material between two thickened areas on the bellows type collar. The prior art Kim et al, clearly teaches two thickening elements (fig. 5, parts 532 located on the visible inner collar ring and the second thickening element part 531 located on the outer collar ring) where both element are located on the bellows collar with the articulated section located between the thickening elements (Kim, figure 5, the articulated section is formed at the point where the inner collar ring meets the annular stiffening element, part 532 thus the articulated section of thinner material is located between the two thickening elements).

Response to arguments for claim 17

Applicant is arguing on page 12, paragraph 8, that the prior art does not localize the swivel movement at the joint rather than spreading out the movement across the annular stiffening element as a whole. However these limitations are not claimed, thus applicant's arguments at this moment in time are moot.

Applicant is arguing on page 13, paragraphs 3-5, that the prior art does not teach a stiffening bead on the central collar ring and that one of ordinary skill in the art at time of the invention would have a reasonable rationale to place a bead on the central collar ring. The prior art Kim et al clearly teaches that beads (fig. 5, part 531, [0071]-[0074] & [0081]) to prevent the deformation of the outer and the inner collar rings (fig. 5, part 531 are located on the inner and outer collar rings, [0071]-[0074] & [0081]) with the beads spaced away from the edges of the

Art Unit: 1712

ring (fig. 5, clearly show this). The Kim et al clearly teaches that the thickening beads (part 531) are placed in multiple locations on different collar rings to prevent deformation of the collar, thus it is well within the skill level and obvious to one of ordinary skill in the art at the time the invention was made to have placed a bead on the central collar ring to yield the predictable result of preventing deformation of the central collar ring.

Response to argument for claims 9 & 22

In response to applicant's argument that Deuring (U.S. 4,826,180) is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Deuring is solving the same problem as Kim et al of strengthening a flexible seal member (the bellows-type collar is the seal, where kim is strengthening the seal with the annular stiffening/strengthening element, part 532).

Applicant is arguing that Deuring is nonanalogous art since it is not solving the same problem as the applicant is concerned with. Applicant is trying to strength a bellows type collar for a washing machine. Bellow type collar are a flexible seal for sealing the space between the wash tub and the front of wall of the washing machine. Kim et al teaches a annular stiffening element (part 532) that is used to prevent deformation (Kim, [0075] & [0081]) and that it is used to strength the collar ([0075] & [0081]). Applicant is using stiffening elements to strengthen the collar (i.e. the flexible seal). Deuring is solving the same problem as Kim et al and Applicant of

Art Unit: 1712

strengthening a flexible seal. Therefore, since Deuring is solving the same problem as Kim et al and Applicant of strengthening a flexible seal, Deuring is considered analogous art.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/S. A. W./

Examiner, Art Unit 1712

/Michael Cleveland/

Supervisory Patent Examiner, Art Unit 1712

Conferees:

/Michael Cleveland/

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/Anthony McFarlane/